

**MINUTES OF THE  
STATE EMERGENCY RESPONSE COMMISSION MEETING  
August 22, 2001**

California Environmental Protection Agency  
1001 I Street, Sierra Hearing Room (2nd Floor)  
Sacramento, California 95814

**MEMBERS PRESENT:**

Dallas Jones	OES, Director
Mark Ghilarducci	OES, Deputy Director
Steve Tsumura	LEPC, Region I
Jim Nelson	LEPC, Region II
Kelly Purdom	LEPC, Region III
Mike Dorsey	LEPC, Region VI
Jack Geck	Resources Agency
Brian Clark	City Government

**OTHERS PRESENT:**

Sean Grady	OES, Southern Region
Jerry Colivas	OES, Inland Region
Roy Manning	OES, Inland Region
Madeline Martin	OES, Inland Region
Charles Wynne	OES, Inland Region
Len Miller	OES, Coastal
Phyllis Cauley	OES, Technological Hazards
Dr. Frederick Lercari	OES, HazMat
Ed Schneider	OES, HazMat
Cara Roderick	OES, HazMat
Deni Gray	OES, HazMat
Shelley Anderson	OES, HazMat
Trevor Anderson	OES, HazMat
Brian Haddix	Cal/EPA
Angie Proboszcz	USEPA
Steve Smith	Cal/OSHA
William T. Mason	Cal/CAER
Sukla De	City of Union City
George Verbryck	Swimming Pool Chemical Marketing Association (SPCMA)
Stephen Murrill	Chemical Industry Council of California (CICC)
Colby La Place	Jones-Hamilton
Paul Penn	Environmental Hazards Management
Janis Heple	Public

**1. Call to Order**

Dallas Jones, Director of the Governor's Office of Emergency Services (OES), and Chair of the State Emergency Response Commission (SERC), called the meeting to order at 10:20 a.m. All SERC meetings are recorded for retention purposes.

**2. Welcome and Introductions**

Chair Jones introduced Mark Ghilarducci, Deputy Director of OES, who may chair SERC meetings on occasion. He also welcomed the attendees and members, who introduced themselves and the agency or group they represented. New member representing city government, Brian Clark, was welcomed to the Commission. Brian is a Deputy Fire Marshal for the City of Ventura.

**3. Announcements**

The next SERC meeting is scheduled for November 7, 2001. This meeting will be held in the Food and Agriculture auditorium located at 1220 N Street, Sacramento. The March 2002 meeting is tentatively set for March 20<sup>th</sup>. Members were requested to confirm availability and potential conflicts for discussion at the upcoming November 7th meeting.

Amendments to the Bagley-Keene Open Meeting Act became effective July 1, 2001, requiring agenda posting on the Internet for any state-level public meeting. Instructions were provided on how to access the SERC agenda on the OES website. Website access will be improved over time. Region I is already posting their agenda through the CAER website. Other LEPCs have information posted as well on the OES web site; however it is only accessible through RIMS, which is not available to the general public.

**4. Approval of Minutes – March 14, 2001**

**Action:** A motion was made to approve the March 14, 2001, minutes as written. The motion was approved.

**5. Membership – Local Government Representatives –  
Dallas Jones, Director, Governor's Office of Emergency Services**

The SERC confirmed Ralph Huey, CUPA Forum, at the March 14, 2001, meeting as the local government member representing California Certified Unified Program Agencies (CUPAs). At the direction of SERC, letters were sent to the League of California Cities and the California State Association of Counties inviting representation.

The League of California Cities designated Brian Clark, Deputy Fire Marshal, City of Ventura, to represent city government.

**Action:** Brian Clark was confirmed as the local government representative, completing local government representation on the SERC.

The local government representative for county government has been designated as Denny Bungarz, County Supervisor from Glenn County, who will be considered as a member in November. This last appointment will complete the three local government representatives as identified in Executive Order D-40-93.

**6. California Accidental Release Prevention (CalARP) Program/Phase 2 Regulations – Cara Roderick, Office of Emergency Services, Hazardous Materials Unit**

An update on the Phase 2 regulatory process was provided by Cara Roderick, OES, Hazardous Materials Unit. The current Phase 1 regulations have been in place since 1997. These regulations were promulgated as emergency regulations.

The Phase 1 emergency regulations included the Federal Accidental Release Prevention Program Tables 1 and 2, which included 77 toxic substances and 63 flammable substances and Table 3 (developed similar to the former Risk Management and Prevention Program/RMPP). Seventy-one substances overlap on Table 1 and Table 3 with the federal regulations. Table 3 consists of some substances with more stringent requirements than the federal lists, as recommended by the Office of Environmental Health Hazard Assessment (OEHHA).

Development of the Phase 2 regulatory process began in 1998, but was delayed. OEHHA had provided recommended changes to Table 3 to be incorporated when new regulations were introduced. OES also reviewed the toxic endpoints of the proposed Table 3, with OEHHA's original recommendation.

These documents are contained in **Attachment A** (1) the letter dated July 11, 2001 to interested parties; the proposed draft Table 3 State Regulated Substances list; and 3) the proposed draft Table of Toxic Endpoints.

To date, 11 informal comment letters have been received. Ms. Roderick noted that the Health and Safety Code empowers the Certified Unified Program Agency (CUPA) or Administering Agency (AA) to make a preliminary determination on a particular chemical as to whether or not the facility poses an accident risk or whether circumstances exist to warrant the exemption process.

Ms. Roderick stated that the next step may be to enter the formal rulemaking process with submission to the Office of Administrative Law. There is not a firm date for this submission to occur.

**7. Local Emergency Planning Committees (LEPCs) – Review of Activities related to the Emergency Planning and Community Right-to-Know Act (EPCRA)**

Individual LEPC Chairs, or their designees, were requested to provide a report on activities and trends related to implementation of EPCRA and issues specific to its Community Right-to-Know (CRTK) requirements.

Region I LEPC, Steve Tsumura, Chair: Mr. Tsumura provided a review of efforts and issues in Region I (**see Exhibit 1**). Region I covers an extremely large area, and is in the process of finalizing their 2000 Regional Plan utilizing Department of Transportation grant money, an obscure source available for training and support of locals.

Among the issues surrounding EPCRA and CRTK (Community Right-to-Know) are:

- reliance on limited volunteer efforts/inadequate staffing to meet requirements, including emergency drills;
- the ineligibility of LEPCs to receive funding; competition for local grant dollars is great;
- lack of existing budget for meeting notices;
- limited planning elements and drills; and
- lack of public coordination during routine operations rather than disaster mode.

Region I recommends information about the DOT web site grant availability be referenced on the OES web site, and additional OES staff be provided to the region to aid in implementation of EPCRA and CRTK.

Region II LEPC, Jim Nelson, Chair: Mr. Nelson provided a review of efforts and issues in their region (**see Exhibit 2**). Region II's diversity, a mixture of urban, suburban and rural, makes it difficult to effectively and responsibly comply with EPCRA mandates.

Predominant EPCRA and CRTK issues are:

- reliance on Community Awareness and Emergency Response (CAER) to disseminate information to the public, and on the CUPAs to get word to the regulated businesses and the public;
- lack of meaningful roles appropriate to a committee of volunteers with minimal administrative support skills; and
- lack of a central responsible person for CRTK activity in the region or state.

Region III LEPC, Kelly Purdom, Chair: Mr. Purdom provided a report of efforts and issues in their region (**see Exhibit 3**). Region III is unique in that there are 13 counties with no metropolitan or industrial tax base from which to draw. The area contains well over 50% of the state's water supply and has a vast public highway and transportation corridor that impacts the region, but over which they have no authority. Region III does not produce, consume or store hazardous materials in large quantities.

Among the issues surrounding EPCRA and CRTK are:

- limited resources and capabilities to respond to hazardous material incidents on railroads and highways;
- lack of CAER groups because the industry base and the product quantities are not present as in industrialized areas;
- outdated Regional and Area Plans and a state Hazardous Materials Incident Contingency Plan (HMICP) which is outdated and not in place, making it difficult for Area Plans to be functional;
- reliance on libraries and other locations as the primary mode of public meeting noticing.

Region IV LEPC, Dennis Smith, Chair: Report not provided. To be scheduled for November meeting.

Region V, LEPC, Tim Henry, Chair: Report not provided. To be scheduled for November meeting.

Region VI, LEPC, Mike Dorsey, SERC Representative: Mr. Dorsey provided a report of activities and issues in their region on behalf of Melinda Hathaway, LEPC Chair (**see Exhibit 4**). Region VI is unique due to its vast area. The area includes major railways, transportation, water, and border issues, and houses a nuclear power plant. They have several committees with a diverse group of members.

There are six CUPAs within the region, three participating agencies and two designated agencies, the agencies responsible for EPCRA. Among a few of the activities are evaluating the uniform collection of hazardous materials inventory; identifying risk-based solutions to hazardous materials; discussing methods and approaches for first responders; participating in the Release Reporting Task Force, and coordinating a uniform approach to implementation of the CalARP (California Accidental Release Prevention) program.

Among the issues surrounding EPCRA and CRTK are:

- lack of funding for LEPC activities;

- lack of participation by government agencies, private industry and the community;
- lack of uniform statewide regulatory guidelines and policies;
- limited support for training and regional table top exercises;
- outdated Regional Plan;
- a method to provide useable hazardous materials inventory to first responders;
- lack of a uniform approach to collecting hazardous materials inventory;
- clearer reporting guidelines for release reporting;
- implementation of Phase 2 CalARP regulations, and
- the need for USEPA's final approval of the OES statewide inventory form as meeting Tier II reporting requirements.

Angie Proboszcz, Region 9, USEPA, stated that a letter approving OES's statewide inventory form as meeting federal reporting requirements was sent from USEPA.

**8. Release Reporting Task Force Update –  
Ed Schneider, OES, Hazardous Materials Unit**

As directed at the March 14, 2001 SERC meeting, a Task Force was formed to explore the feasibility of developing spill reporting guidelines as a means to simplify whether or not spills should be reported. The Task Force, consisting of businesses, agencies, urban and rural representatives, met on June 27, 2001. A summary of progress to date was provided by Ed Schneider, OES, Hazardous Materials Unit, (**see Exhibit 5**).

Mr. Schneider stated that the guidelines being established by the Task Force: 1) must not undercut existing state or federal requirements; 2) must be simple to follow; 3) must focus on substances most often released, and 3) must be applicable to any region in California. Stephen Melvin, Orange County Fire Authority, volunteered to design a flow chart based on information provided by the Task Force. A draft flow chart was sent to the Task Force (**Exhibit 5**) and will be discussed by conference call on August 29, 2001. The focus will be on refinements to the draft flowchart and goal setting to be able to present a product at the November SERC meeting.

Discussion included whether or not the staff attorney should look at the flow chart prior to SERC review to determine whether it would affect regulations or guidelines; member composition of the Task Force; and whether to implement use of the flow chart and then assess if there is a need for change in regulation or guidelines.

This item will be continued on the November agenda.

**9. State Agency Presentations – Review of Activities related to the Emergency Planning and Community Right-to-Know Act (EPCRA)**

Jack Geck, Department of Fish and Game (DFG), Resources Agency, presented the first state agency report on activities related to EPCRA (**see Exhibit 6**). Mr. Geck reported that the DFG/Office of Spill Prevention and Response (OSPR) under Resources Agency, is the lead state agency charged with oil spill prevention and response in California. OSPR protects over 1,100 miles of coast, four marine sanctuaries (8,767 square miles), and over 300 threatened or endangered species, over 7,300 native fish, wildlife and plant species. Their goal is to protect California's fish and wildlife populations and their habitat from the harmful effects of oil and deleterious material spills. They respond to spills anywhere in California and coordinate efforts as a unified command with the state, federal, local governments, and responsible parties. OSPR maintains a 24-hour dispatch and communications center and field response team, and administers the Emergency Response Fund.

Activities in support of EPCRA are membership on SERC, regulation of the maritime oil transportation industry, maintenance of Spill Contingency Plans, certificates of financial responsibility, and maintenance of Consolidated Contingency Plans.

The next EPCRA/CRTK presentation will be CalEPA in November.

**10. United States Environmental Protection Agency Report – Angie Proboszcz, Region 9**

Angie Proboszcz, Region 9, USEPA, summarized current issues of interest to the SERC (**see Exhibit 7**). Ms. Proboszcz reported a new Consolidated List of Lists and Tier II submit letter is available on the EPA web site; Region 9 and Agency for Toxic Substances and Disease Registry phone number changes; an updated LEPC database allowing searches by zip code; and reading room availability for Off-Site Consequence Analysis information. Ms. Proboszcz urged those wishing to comment on federal DOT regulations provide comments to Barbara Yu, Los Angeles Fire Department.

An update of activities will be provided by a representative of USEPA at each SERC meeting.

**11. Role of LEPCs Regarding Land Use Decisions – Janis Heple, LEPC Region IV**

Janis Heple, on behalf of LEPC Region IV, requested SERC guidance on LEPC participation in land use decisions. Ms. Heple stated the issue specifically involves the Suburban Propane facility in Elk Grove, California. At the time Suburban Propane was built in 1992, the population that could be affected by an incident was significantly less than it is today. Today the population has grown, a shopping mall was recently approved and the parking lot will be in the area of impact. Also, a

recently approved subdivision is to be built even closer than the existing homes-within six tenths (6/10) of a mile of the facility. Ms. Heple noted that a plot to plant dynamite at this specific facility occurred within the recent past. If a subdivision or mall already existed, a facility of this type probably would not have been approved.

Among those questions the LEPC is seeking direction on are: is there is a Community Right-to-Know issue related to Suburban Propane and should the LEPC speak to these types of issues and the threat posed to the community at the local planning level?

Chair Jones noted that there was an opinion rendered by former OES legal counsel, Bob McKechnie, regarding this issue. Chairman Jones stated there are no obvious legal barriers to LEPCs providing official comments to decision making bodies regarding this issue as long as the comments have been adopted by the LEPC in accordance to its governing rules; the comments are for the purpose of informing decision makers and do not advocate any particular position on the issue addressed, and comments do not violate specific disclosure prohibitions such as those pertaining to trade secrets or the location of specific hazardous materials. Also, on counsel advise, it would be appropriate to seek ratification by the SERC prior to submitting such official comments.

Discussion/Comments: The legal opinion rendered by Bob McKechnie should be released to the LEPC; whether Legal staff has looked into the Health and Safety Code addressing these questions; whether an Environmental Impact Report was conducted on the facility or on the shopping mall; the developer of any subdivision should be required to disclose the proximity to the site.

**Action:** LEPCs requested release of the legal opinion rendered by Bob McKechnie. Staff was requested to look into Health and Safety Code questions.

## **12. Future Agenda Items**

- State Agency Presentations – Review of Programs related to EPCRA  
November 7, 2001 – CalEPA
- Spill Reporting Task Force Update
- USEPA Region 9 Report

## **13. New Business**

Nothing to report.



**14. Public Comment/Related to Agenda Item No. 6-CalARP/Phase 2 Proposed Regulations (Informal Comment Period)**

Colby La Place: Mr. La Place, Jones-Hamilton Co. representing Community Awareness and Emergency Response (CAER), stated that he is opposed to any change in concentration for hydrochloric acid (**see Exhibit 8**). In his opinion, this change would prompt people to change the strength of liquid hydrochloric acid causing an increased number of shipments, e.g., one tank truck shipment a week could translate to 15 extra shipments. He recommended the total industry be taken into account, potential impact of increased shipments and the incidents to date. He stated that changing the concentration for this chemical would create an undue burden on the industry.

Sukla De: Ms. De (CUPA, Region II) voiced concern over the increase in the proposed regulations of ammonia (aqueous) to 20%. She believes the trend will be for industry to reduce the concentration to 19% to avoid the burden of filing an Risk Management Plan (RMP) and falling under the CalARP program. This could result in an increased number of shipments/increased number of transportation incidents.

George Verbryck: Mr. Verbryck, representing the Swimming Pool Chemical Marketing Association, is opposed to the addition of hydrochloric acid (at 33% concentration, it is commonly known as muriatic acid) to Table 3. (**see Exhibit 9**). The proposed threshold for muriatic acid solution is 1,000 pounds, roughly 100 gallons. Every single pallet of muriatic acid shipped in California exceeds the proposed threshold and would be subject to the requirements of the CalARP program. This would affect thousands of outlets in California who would be required to have an RMP in place. He stated that there is no accident or loss history for packaged one-gallon muriatic acid solutions either during manufacturing or warehousing.

Mr. Verbryck also stated that requiring an RMP would create an unjustified burden on the industry, resulting in additional costs to the production and product cost (label changes require substantial time and cost), and in the end cause people to ship more acid or change the strength to reduce the annual cost. He echoed earlier comments related to increased shipments.

Those who provided public comments offered to provide additional information in support of their concerns once OES enters the formal rulemaking process.

There being no further business, the meeting was adjourned at 12:35 p.m.

Submitted by:

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Deni Gray, Staff Services Analyst

Date Approved: 3/20/02